THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT APPEAL NO.530 OF 2006

Date: 24-05-2006

Between:

Kandipalli Abbulu …Appellant

And

Municipal Corporation of Visakhapatnam …Respondent

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

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WRIT APPEAL NO.530 OF 2006

J U D G M E N T *(Per the Hon'ble Sri Justice L.Narasimha Reddy):*

The appellant claims that he is in possession of Acs.11.50 cents of land in various survey numbers of Mudasarlova village, Pedagadithana, Vizianagaram Estate. According to him, proceedings are pending, before the competent authority, for grant of ryotwari patta under the Andhra Pradesh Estate Abolition Act, 1948 (for short "the Act"). The grievance of the appellant is that even while the proceedings for grant of patta are pending, the respondent is taking steps to widen the existing road by taking possession of part of the said land. He filed W.P.No.7415 of 2006 with a prayer to restrain the respondent herein-Municipal Corporation of Visakhapatnam, from taking any steps affecting his rights *vis-à-vis* the land, till the proceedings, pending before the Commissioner of Appeals, Hyderabad, are disposed of. He also filed miscellaneous applications seeking directions against the respondent not to take any further action, such as marking of the land for the purpose of widening the road etc. Through order dated 26-04-2006, the learned Single Judge dismissed the miscellaneous applications. Hence, this writ appeal.

Heard learned counsel for the appellant and learned Standing Counsel for the respondent.

It may be true that the appellant is pursuing his remedies under the Act for grant of ryotwari patta. The fact, however, remains that as of now he is not granted any patta. It is urged that even in case where the request of the appellant for grant of ryotwari patta is not acceded to, he is entitled to protection under Section 3(d) of the Act.

Mere taking possession of the land for the purpose of widening the road, does not by itself put an end to the rights of the appellant, which he is, otherwise, entitled to. At the same time, the respondent cannot be interdicted from proceeding with widening of the road, on the sole ground that the proceedings initiated by the appellant are pending. The interest of the appellant can amply be protected by directing that taking

possession of any portion of the land, referred to above, by the respondent shall be without prejudice to the rights of the appellant. To be more precise, it is directed that the respondent shall be under obligation to pay compensation, in the event of the appellant being granted any ryotwari patta, for such portion of the land, which has been utilized in widening of the road. It shall also be open to the appellant to put forward his case by pleading rights under Section 3(d) of the Act for this purpose. The respondent shall issue notice to the appellant before taking possession of any portion of the land and maintain proper record both as regards measurement and valuation of the neighbouring properties.

The writ appeal is, accordingly, disposed of. There shall be no order as to costs.

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(L. NARASIMHA REDDY,J)

Dated 24th May, 2006

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(D.APPA RAO,J)

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